

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 7. Mediation Questionnaire**

*Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>*

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| <b>9th Cir. Case Number(s)</b>      | 23-16091  |
| <b>Case Name</b>                    | National Assn. for Gun Rights v. City of San Jose |
| <b>Counsel submitting this form</b> | Timothy A. Bittle, CA Bar No. 112300              |
| <b>Represented party/parties</b>    | Plaintiffs Howard Jarvis Taxpayers Assn., et al.  |

*Briefly describe the dispute that gave rise to this lawsuit.*

The City of San Jose, California, on January 25, 2022, passed Ordinance No. 30716 which requires San Jose gun owners to carry gun liability insurance and to pay an “annual gun harm reduction fee” to a private nonprofit organization that the City Manager will designate from time to time. The fee was set at \$25 for the current fiscal year, although a specific nonprofit has not yet been designated.

The nonprofit may use the funds for suicide prevention, gender based violence services, substance abuse treatment, mental health services related to gun violence, or firearms safety education. The ordinance states that failure to timely pay the annual fee is punishable by a fine and confiscation of the owner’s firearms.

Plaintiffs allege, among other things, that the fee is a tax that needed voter approval, that it violates their First Amendment rights against compelled speech and/or association, and that threatening confiscation of firearms for failure to pay the fee is an unconstitutional condition.

*Briefly describe the result below and the main issues on appeal.*

Judge Beth Labson Freeman (ND Cal.) dismissed all of plaintiffs' claims on their merits without leave to amend, except for the First Amendment claims, which she dismissed as not ripe (because no nonprofit had yet been designated), with leave to amend when they become ripe.

Plaintiffs, believing their First Amendment claims are ripe, filed notice of their intent to not amend, which resulted in the Judge entering a final judgment of dismissal.

The main issues on appeal are: (1) Can the government require citizens to financially support a private nonprofit organization without violating their First Amendment right against compelled association or compelled speech? (2) Is the City's gun fee really a tax that needed voter approval under the California Constitution? (3) Is it an unconstitutional condition to require gun owners, as a condition of owning a gun, to pay an annual fee to a private nonprofit organization designated by the government?

*Describe any proceedings remaining below or any related proceedings in other tribunals.*

None.

**Signature**

**Date**

(use "s/[typed name]" to sign electronically-filed documents)